

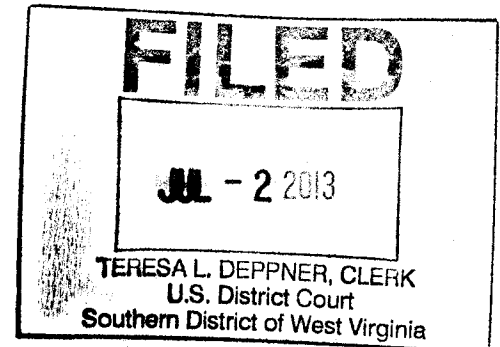
Oak Hall  
Mount Olive Correctional Facility  
Mount Olive, West Virginia 25185

July 01, 2013

Ms. Teresa L. Deppner, Clerk  
Robert C. Byrd U.S. Courthouse  
300 Virginia Street, E., Room 2400  
Charleston, West Virginia 25301

RE: Cyrus v. Ballard  
Civil Action No. 1:12-cv-09341

Dear Ms. Deppner:



Today, I am submitting exhibits to amend my standing Order Petition that was filed on December 21, 2012, and ENTERED as September 02, 2010 to pursuant to 28 U. S. C. § 2254 in the United State District Court of Southern District of West Virginia. I was informed wrongly in sending the exhibits sooner. Enclosed is the exhibits and a page to indicate what the exhibits are.

Please send me a copy of the docket sheet acknowledging receipt and amending of exhibits.

Thank you for your kind consideration of this matter.

I cordially anticipate hearing from you in the near future.

Sincerely yours,

*Harold Lee Cyrus*  
Harold Lee Cyrus  
DOC #43634

Enclosure

cc: file

**REFERENCE PAGE**

- Exhibit A** Transcript page 23 taken from Habeas Corpus November 24, 2008, stating from the alleged victim, that the petitioner *is innocent*.
- Exhibit B** Transcript page 75 taken from Habeas Corpus November 24, 2008 showing the Counsel for the defendant received a letter from the alleged victim recanting after trial.
- Exhibit C-D** Updated visitor list showing the alleged victim has been approved visitor since sentencing with reference.
- Exhibit E-F** The alleged victim has testified numerous times stating the defendant *is innocent* and at a Habeas Corpus hearing, case no. 08-C-322 that was incorporated to another Habeas Corpus hearing, case no. 10-C-84 & 10-C-32-DS to be incorporated together, stating that the alleged victim lied on the petitioner.
- Exhibit G** Cornerstone Psychologist Report on the alleged victim, page 5, *reveals* “rule out sexual abuse of a child”.
- Exhibit H** Correspondence to the Governor of West Virginia, dated August 17, 2010 from the alleged victim *indicating* the petitioner is *actual innocence* of all crime.
- Exhibit I** Correspondence to the West Virginia Supreme Court of Appeals/ Judge Robin Davis, dated August 06, 2011 from the alleged victim *indicating* the defendant is *actual innocence* of all crime.
- Exhibit J** Transcript page 81 taken from Habeas Corpus hearing November 24, 2008, *negative reports* of alleged crime has been known.
- Exhibit K** *Statement filed* to the Circuit Court of Mercer County, West Virginia October 31, 2012, from the alleged victim stating the *accusations are false* against the petitioner.

Exhibit  
A

**TRANSCRIPT TAKEN FROM OMNIBUS HABEAS CORPUS  
NOVEMBER 24, 2008**

**PAGE 23**

**By Mr. Cooke to the witness Kimberly Stevenson**

1           A       Basically in that letter it was saying  
2       that he was innocent.

3           Q       Okay. And then you had also written a  
4       letter—a letter to Mr. Cyrus' criminal lawyers,  
5       Mr. Scantlebury and Mr. Smith. In the letter, what  
6       did you say?

7           A       He was innocent in that one also.

TRANSCRIPT TAKEN FROM OMNIBUS HABEAS CORPUS  
NOVEMBER 24, 2008

PAGE 75

1 anything.

2 THE COURT: All right. Mr. Cooke, any more  
3 questions?

4 Mr. COOKE: Just one briefly, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. COOKE:

7 Q. Mr. Scantlebury, your office had  
8 received a letter from Kimberly Stevenson recanting,  
9 hadn't she?

10 A. Oh, yes. Actually we received it  
11 after the trial and I believe shortly after sentencing  
12 if my memory's correct. And we brought

Exhibit  
C

# West Virginia Division of Corrections Inmate Visitor Report

Run Date: 6/12/2013  
Run Time: 4:33 PM  
Page 1 of 1

DOC: 43634 - 1

Inmate: CYRUS, HAROLD LEE

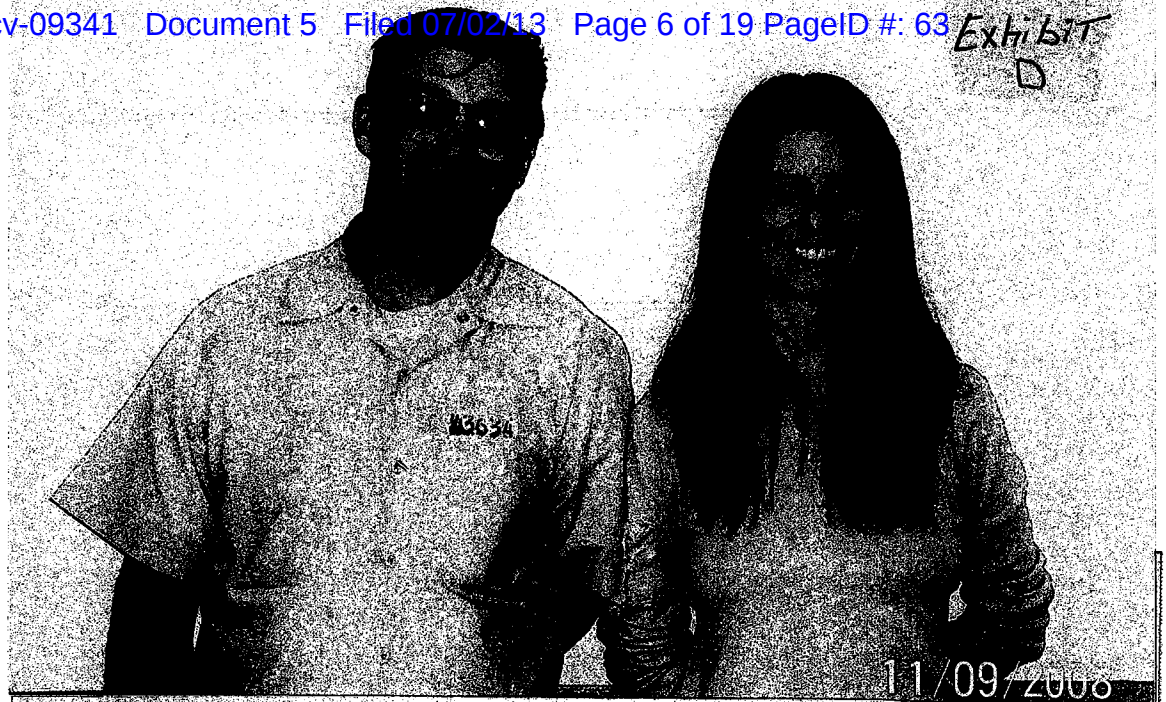
Bed Assignment: MOCC- OAK- 1- 125- 1

<u>Application</u> <u>Date</u>	<u>N/C</u>	<u>Approved</u> <u>/Denied</u>	<u>Denied</u> <u>Start Date</u>	<u>Denied</u> <u>End Date</u>	<u>Name</u>	<u>Address</u>	<u>Phone Number</u>	<u>Rel</u>
11/11/2009	N	Y			BOLT, ALICE FAYE	PO BOX 491 PINEVILLE, WV 24874-	(304) 732-6390	FR
08/16/2011	N	Y			CYRUS, VICKIE ANN	RT 4 BOX 333B BLUEFIELD, WV 24701-	(304) 308-4237	SP
10/06/2008	N	N-DNB	10/11/2011	10/11/2011	HALL, ROBIN	RT 5 BOX 300 BLUEFIELD, WV 24701-	(304) 887-8472	MO
11/20/2011	N	Y			STACY, EPHRAIM EUGENE	RT 4 BOX 333B BLUEFIELD, WV 24701-	(304) 589-3233	SI
11/20/2011	N	Y			STACY, KIMBERLY RENEE	RT 4 BOX 333B BLUEFIELD, WV 24701-	(304) 589-3233	DT
01/03/2012	N	Y			WORKMAN, ALICE FAYE	P.O. BOX 491 PINEVILLE, WV 24874-	(304) 732-6390	SL

Count: 6

End of Report

Taken  
11/09/2008



Taken  
03/01/2009



Taken  
03/07/2010



Cont. —————>





Taken  
09/17/2012



Taken  
09/25/2010

Taken September 25, 2010 Open House, Mrs. L.



Taken  
09/15/2012

Exhibit  
E

**TRANSCRIPT TAKEN FROM OMNIBUS HABEAS CORPUS  
NOVEMBER 24, 2008**

**PAGE 24**

**By Mr. Cooke to witness Kimberly Stevenson**

- 1 Q Okay. Is that the first time that you
- 2 visited with him?
- 3 A That was the first time I visit.
- 4 Q Now, have you done any----have you had
- 5 any other contact with Mr. Cyrus other than this visit?
- 6 A I wrote him a letter.
- 7 Q Okay. Just basically just checking up
- 8 on him?
- 9 A Yes.
- 10 Q Okay. So this incident that led to
- 11 Mr. Cyrus' incarceration did not happen?
- 12 A No, it did not.



Exhibit  
F

TRANSCRIPT TAKEN FROM OMNIBUS HABEAS CORPUS  
NOVEMBER 24, 2008

PAGE 26

CROSS-EXAMINATION

By Ms. Garton to witness Kimberly Stevenson

1 during that trial?

2 A So you're asking me if I -----you're

3 asking me if I lied in that trial when I was under

4 oath?

5 Q Yes

6 A Yes

7 Q You're admitting to a crime?

8 A I guess that's a crime.

Exhibit  
G

Kimberly Stevenson  
Page 5

suggesting her allegiance is to him although his right arm is missing and he cannot reach out toward her.

#### CONCLUSION:

Kimberly accused her stepfather of sexual abuse in August 2003 giving a detailed forensic interview. However, she recanted in November 2003. During this evaluation, Kimberly would not discuss the allegations and denied any sexual abuse by the stepfather.

Results of IQ and achievement testing indicate Kimberly is functioning in the Borderline range of intellectual ability. The strength in the Comprehension Subtest of the WISC-III and answers to interview questions indicate that Kimberly does have the ability to differentiate the truth from a lie.

I recommend intensive individual therapy for Kimberly to educate in deep breathing and relaxation techniques to reduce anxiety. I also recommend therapy include education in coping skills, personal boundaries, safe sex, and decision making. If she is returned to her biological mother, they should attend family therapy sessions to promote communication and transition into reunification.

#### DIAGNOSTIC IMPRESIONS:

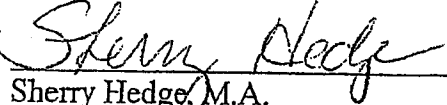
AXIS I: 300.02 Generalized Anxiety Disorder  
995.53 Rule Out Sexual Abuse of a Child

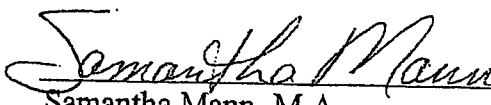
AXIS II: V62.89 Borderline Intellectual Functioning

AXIS III: V71.09 None

AXIS IV: Social problems  
Educational Problems

AXIS V: GAF = 58, current

  
Sherry Hedge, M.A.  
Supervised Psychologist

  
Samantha Mann, M.A.  
Licensed Psychologist

August 17, 2010

Joe Manchin III  
Office of the Governor  
State Capitol  
1900 Kanawha Blvd., East  
Charleston, W.Va 25305

I Kimberly R. Stacy need you to know that Harold Lee Cyrus #43643 has been in prison for about 5 years now at Mount Olive Correctional Center, Mount Olive, W.V. The crime that he was put there for, he did not do. I could understand keeping someone locked up for a lifetime if they had committed such a crime, for as I have a little boy, and one due in Dec. 2010. But it was not Harold that done the unforgiveable thing to me, it was Chris Smith and John John Brunfield, I was 9 years old old when John John Brunfield raped me, but he told me never to speak of it. I was 13 at the time of Chris, he drugged me and then had his way. I've read the hospital reports done by Bluefield that summer, and in it, there is no age, it just says adult male, which at that time

Chris was 18 years old. I tried to tell the courts about Chris, but Debra Gordon, the prosecutor told me to keep my mouth shut about anyone who had raped me or she would not have a case. Bluefield Hospital has all the proof that Chris raped me, but it's in the warehouse. I can not get it myself, I was told by Bluefield that I have to have permission from a judge or lawyer.

Yes I did lie on my step dad and say that he did it, only because my stepsister Victoria told me to go along with her. My grandmother Rosetta Easter told me I could finally live with my big sister, that she took from my mom, and Arbutus Colburton, she is out for revenge because Harold divorced her. who could blame him.

I told the court that I lied on Harold, but they still don't believe me. Just put yourself in my stepdad's shoes for two seconds, and think about it. Would you want to be placed in a cold cell, sleep on a hard bed, and eat food that even the rats would not eat? All because some people

lied on you, and a girl you raised since she was little, you looked at her as your own. She was told to go along with a horrible story about her stepdad. But when time came where she could no longer keep such a lie built up inside her, the court refused to believe me just because my story changed, from yes it was my stepdad, to no your honor it was really Chris Smith that raped me.

I'm 20 years old, I have a wonderful husband, a beautiful baby boy, and another baby boy on the way. Harold Cyrus has suffered long enough for something he did not do. I am honestly tired of having to watch him suffer. Everytime I go visit him, it kills me to have to leave and not be able to take him out of that place. I do not ask for much, but I am asking you, please, have Harold Lee Cyrus # 43634 released immediately. After fighting in court since 2003, it is almost 2011. The court will not listen to me, so I am hoping that you will and open your heart and



listen. And please let an insert men  
go free.

Thank you,  
Kimberly R. Stacy

Please respond -

Address

Kimberly R. Stacy

Rt 4, Box 333-B

Bluefield, W. Va

24701

Supreme Court of Appeals  
of West Virginia  
To Judge Robin Davis  
State Capital, Room E-317  
1900 Kanawha Boulevard, East  
Charleston, W.Va 25305

August 6, 2011

Dear Judge Davis,

I am writing this letter be-  
cause I feel that a few things  
need to be cleared up. First of all my  
father Harold Lee Cyrus #43634 is  
innocent of the things he was charged  
with and there is proof, such as medical  
records, showing that Chris Smith is  
the one that had sex with me not  
my dad. The records was sealed by  
the court, I know because I tried  
to get them and they told me that I  
could not have them even though they  
were about me. I have been to all of  
the hearings. Even on the stand. I've  
told the court over and over again that  
Harold is innocent. I could understand  
keeping him locked up if he had done

such a crime. But Right now he is spending precious moments of his life behind bars for what Chris done. Yea, Chris got a whole three months in jail and one year probation. But that was for taking a 13 year old over state line and giving drugs.

They said that they lost the evidence, but they are at Bluefield Hospital in the warehouse. I remember setting in the judges chamber with Victoria my step sister, and going over everything to make sure I had the story right. Tori told some horrible lies, and I knew it so I told them that she was lying. And they told me to keep it quiet. And when I said something to Debra Gardon about Chris, she told me to keep his name out of this or her case is done.

I don't know what you would have done, but I know that I was scared so I was doing what I was told. But I have to say that Tori wasn't alone, she had my grandmother (Rosetta) and her mom (Arbutus Holbertson),

She's Harold's first wife. They never got along. She enjoyed causing trouble. This maybe hard to believe but when you see counsel her for a while you get to know her. You would understand. Judge Davis, I don't know if you've ever told such a horrible lie that it eats at you, until you can't bare it no more, but the lie I told on my dad for Tori, literally ate me alive. I was at my breaking point and I finally told the truth. Put yourself in Harold's shoes for a moment, and think about how it must be to sleep in a cold cell on a steel bed, and eat horrible rotten food that a rat wouldn't touch. I have told the courts over and over again that Harold didn't hurt me in any way. They won't listen. So now I'm hoping and praying that you will listen to me.

Thank you,  
 Kimberly R.  
 Stacy

Please Respond  
Kimberly R. Stacy  
P.O. Box 333B  
Bluefield, W. Va  
26001



HAROLD LEE CYRUS #43634  
MOUNT OLIVE CORRECTIONAL FACILITY  
ONE MOUNTAINSIDE WAY  
MOUNT OLIVE, WEST VIRGINIA 25185



CORRESPONDANCE FROM INMATE  
AT MOUNT OLIVE CORRECTIONAL COMPLEX

CORRESPONDANCE FROM INMATE  
AT MOUNT OLIVE CORRECTIONAL COMPLEX

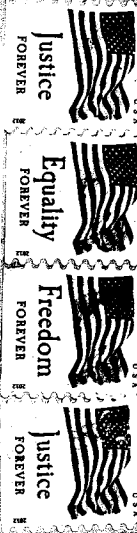
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NOTE: To file a claim for damage or loss of contents, the article, container, and packaging must be presented.

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Robert C. Byrd U.S. Courthouse  
300 Virginia Street, E., Room 2400  
Charleston, West Virginia 25301



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